1971. No. 401 **[NC]**

PENSIONS

The Pensions (Preservation of Increases) Order (Northern Ireland) 1971

ORDER, DATED 30TH DECEMBER 1971, MADE BY THE MINISTRY OF FINANCE UNDER SECTION 6 OF THE PENSIONS (INCREASE) ACT (NORTHERN IRELAND) 1971.

The Ministry of Finance in exercise of the powers conferred upon it by section 6 of the Pensions (Increase) Act (Northern Ireland) 1971(a) and of all other powers enabling it in that behalf hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Pensions (Preservation of Increases) Order (Northern Ireland) 1971.

(2) This Order shall be deemed to have come into operation on 1st September 1971.

Construction

2.—(1) In this Order—

(*a*) "the 1971 Act" means the Pensions (Increase) Act (Northern Ireland) 1971, "the 1944 Act" means the Pensions (Increase) Act (Northern Ireland) 1944(**b**), and similarly with other expressions of the same kind;

(*b*) "average emoluments" and "final emoluments" mean, in relation to a pension payable in respect of a person's service in an office or employment, the average rate of the relevant emoluments over a period of service in the office or employment and the rate of the relevant emoluments in the office or employment received immediately before the pension begins, respectively;

(*c*) "averaging period", in relation to a pension computed by reference to average emoluments, means the period of service by reference to which the average emoluments fall to be determined;

(*d*) "the supplement" means the addition to the 1971 rate which is dealt with by Article 9 of this Order (in accordance with section 6(6) of the 1971 Act);

and this Order is to be construed in accordance with the definitions and other interpretative provisions repeated from the 1971 Act in Schedule 1 to this Order.

(2) Any reference in this Order to a rate of pension or emoluments is a reference to the annual rate.

(3) This Order has effect subject to any provision made in the exercise of the powers conferred by section 5(3) of the 1971 Act.

Interpretation and use of Tables

3.—(1) In the Tables annexed to this Order the expression "up to", where used with reference to a date, is to be read as including that date, but in a head or line preceded by one operating by reference to an earlier date as

(a) 1971. c. 35. (N.I.). (b) 1944. c. 19.

excluding the time up to that earlier date, except in any case to which the preceding head or line does not apply; and similarly where the expression "up to" is used with reference to a rate of pension.

(2) To find from the relevant Table the 1971 rate (with or without supplement) for any pension, the head or line to be used is that relevant to the date when the pension begins; and the basic rate or other rate on which the Table operates for that pension is to be multiplied by the figure given in the column headed by the multiplication sign, and to the result so obtained there is to be added any amount given in a column headed by the £ sign.

Application of Order

4.—(1) This Order applies to the pensions specified in Schedule 2 to the Order, except that it does not apply to—

(*a*) any pension that qualified for an increase under the 1920 Act; or

(*b*) any lump sum or gratuity.

(2) Schedule 2 to this Order notes for each description of pension the Act under or by reference to which increases dealt with by this Order were first payable on pensions of that description, and references in this Order to a pension being, or not being, within the 1944 Act or another Act of the series are to be construed as references to its being, or not being, noted in that Schedule as within the Act mentioned.

(3) In relation to pensions that are not within the 1944 Act, this Order is to have effect as if provisions applying only to pensions beginning on or before 1st April 1947, or relating to a 1944 element, were omitted.

(4) This Order does not apply to pensions other than those to which it is applied by paragraph (1) above, and in particular it does not apply to pensions which would not be noted in Schedule 2 as within the 1963 Act or an earlier Act (the 1969 standard for these pensions being generally higher than the 1971 rate and no supplement being payable).

Ascertainment of 1971 *rate*

5.—(1) Except as otherwise provided in this Order, the 1971 rate of a pension, other than a pension payable under the Belfast Corporation Act (Northern Ireland) 1943(**c**) (the 1971 rate of which is determined in accordance with section 6(3) of the 1971 Act) or any pension the 1971 rate of which is in accordance with section 6(4) of the 1971 Act to be taken to be the rate at which it was being paid on 31st August 1971, shall be ascertained in accordance with the following provisions of this Article from the Tables annexed to this Order.

(2) For earnings-related pensions based on final emoluments, the Tables to be used are as follows:—

(*a*) for a pension beginning on or before 31st March 1952—

(i) if it is based on emoluments of less than £1,365, Table I is to be used;

(ii) if it is based on emoluments of £1,365 or over, Table II is to be used, but in the case of a pension beginning after 31st December 1947 and based on emoluments less than £1,500 is to be applied as if the basic rate were that appropriate to a pension based on emoluments of £1,500;

(**c**) 1943. c. i.

(*b*) for a pension beginning on or after 1st April 1952 (but not after 1st April 1961) Table IA and IIA is to be used.

For a pension beginning after 1st April 1961 the 1969 standard is in all cases higher than the 1971 rate, and accordingly a 1971 rate is not given.

(3) For earnings-related pensions based on average emoluments with an averaging period beginning on or before 1st January 1947, the Tables to be used are as given in sub-paragraphs (*a*) and (*b*) below, but in cases within paragraph (*c*) are to be applied as there mentioned:—

(*a*) for a pension beginning on or before 31st March 1952—

(i) if it is based on average emoluments of less than £1,500, Table I is to be used, unless it begins after 1st January 1948 and sub-paragraph (iii) below applies;

(ii) if it is based on average emoluments of £1,500 or over, Table III is to used;

(iii) if it is based on average emoluments less than £1,500 and begins after 1st January 1948, Table III is to be used, but to be applied as if the basic rate were that appropriate to a pension based on emoluments of £1,500, where the 1971 rate so obtained is less than under Table I (as will happen if the emoluments are over £1,365 multiplied by the figure represented in Table III by the symbol Q);

(*b*) for a pension beginning on or after 1st April 1952, Table IIIA and IVA is to be used, but the basic rate is to be treated as increased, as mentioned in the notes to the Table, according to the proportion of the averaging period falling before the time there indicated;

(*c*) in the case of pensions beginning on or after 1st April 1947, but with an averaging period beginning before 1st April 1946—

(i) if the pension begins on or before 31st March 1952, the rate given by Table I or III is to be increased by the addition of the adjusted 1944 element, if any, to be derived from Table V;

(ii) if the pension begins on or after 1st April 1952, the multiplier in Table IIIA and IVA is to be applied to the basic rate further increased (after the increase referred to in paragraph (*b*) above) by the adjusted 1944 element, if any, to be derived from Table V.

(4) For earnings-related pensions based on average emoluments with an averaging period beginning after 1st January 1947, the Tables to be used are as follows:—

(*a*) for a pension beginning on or before 31st March 1952—

(i) if it is based on average emoluments of less than £1,365, Table I is to be used;

(ii) if it is based on average emoluments of £1,365 or over, Table II is to be used, but in the case of a pension based on emoluments of less than £1,500 is to be applied as if the basic rate were that appropriate to a pension based on emoluments of £1,500;

(*b*) for a pension beginning on or after 1st April 1952—

(i) if it is based on average emoluments of less than £1,500, with an averaging period beginning on or before 1st April 1951, Table IIIA and IVA is to be used, but the basic rate is to be treated as increased, as mentioned in the notes to the Table, according to the proportion of the averaging period falling before the time there indicated;

(ii) otherwise Table IA and IIA is to be used, unless the pension begins after 1st April 1961.

For a pension beginning after 1st April 1961 (and not based on average emoluments of less than £1,500 with an averaging period beginning on or before 1st April 1951) the 1969 standard is in all cases higher than the 1971 rate, and accordingly a 1971 rate is not given in Table IA and IIA.

(5) For flat-rate pensions the Tables to be used are as follows:—

(*a*) for a pension which is not within the 1944 Act, or which became payable only on or after 1st January 1966—

(i) if it begins on or before 31st March 1952, Table I is to be used; and

(ii) if it begins on or after 1st April 1952 (but not after 1st April 1961) Table IA and IIA is to be used;

(*b*) for a pension which is within the 1944 Act and became payable on or before 31st December 1965—

(i) if it begins on or before 31st March 1952, Table IV is to be used;

(ii) if it begins on or after 1st April 1952, Table IIIA and IVA is to be used, but the multiplier is to be applied to the basic rate increased by the 1944 element or adjusted 1944 element to be derived from Table V.

For a pension beginning after 1st April 1961 and not within paragraph (*b*) above, the 1969 standard is in all cases higher than the 1971 rate, and accordingly a 1971 rate is not given in Table IA and IIA.

(6) In relation to such a pension as is specified in paragraph 4(*a*) of Schedule 2 to the 1971 Act, paragraphs (2), (3) and (4) above shall have effect as if references to 1st January 1947 were references to 2nd July 1948, and references to 31st December 1947 and to 1st January 1948 were references to 1st July 1949, and as if paragraphs (2)(*a*) and (3)(*a*) each required Table I to be used for any pension beginning on or before 1st July 1949.

Effect on 1971 *rate of war increases* (*Tables I, II and III*)

6.—(1) Where a pension within the 1944 Act is based on final emoluments and begins on or before 1st April 1947, or is based on average emoluments and begins on or before 31st March 1947, and there has been a war increase in the basic rate of the pension, then the operation of Table I, II or III, if it applies in relation to the pension, shall be modified in accordance with the rules applicable to the case which are contained in the notes to Table V.

(2) For the purpose of the provisions of this Order relating to pensions within the 1944 Act, "war increase" means any increase which may have resulted from an addition after 3rd September 1939 to the emoluments on which the pension is based, being an addition which the pension authority are satisfied was an addition by way of war bonus or other similar allowance.

Apportionments for 1971 *rate in case of double pension* (*Tables I, II, III and IV*)

7.—(1) Where a pensioner is in receipt of a pension within the 1944 Act, and—

(*a*) the pension—

(i) is an earnings-related pension beginning on or before 1st April 1947 if it is based on final emoluments, or on or before 31st March 1947 if it is based on average emoluments; and

(ii) is not one for which head I of Table I, II or III is excluded by the rules as to war increases contained in the notes to Table V; or

(*b*) the pension is an earnings-related pension based on average emoluments which begins after 31st March 1947 but on or before 31st March 1952, with an averaging period beginning before 1st April 1946, and is not one for which the adjusted 1944 element obtained from note 3 to Table V would be nil; or

(*c*) the pension is a flat-rate pension beginning on or before 31st March 1952 and became payable on or before 31st December 1965;

then, if the pensioner is in receipt also of another pension which is aggregable under paragraph (4) below, Table I, II, III or IV is not to be used to find the 1971 rate of the pension, but that rate shall be arrived at by adding together the adjusted 1944 element, if any, to be derived from Table V, the adjusted 1952 element to be derived from Table VI and the adjusted basic rate.

For this purpose the adjusted basic rate is 1·8887 times the basic rate or, if the basic rate is more than £1,000, is the sum of 1·7170 times the basic rate and £171.70, except for pensions within sub-paragraph (*b*) above which begin after 1st January 1948 and for which, but for this Article, Table III would be used to find the 1971 rate; and for those pensions the adjusted basic rate is the rate given by Table IIIA and IVA as the 1971 rate for a pension beginning on 1st April 1952 and not within the 1944 Act.

(2) Where a pensioner is in receipt of a pension beginning on or before 31st March 1952, and either—

(*a*) the pension is within the 1944 Act, but paragraph (1) above does not operate in relation to it; or

(*b*) the pension is within the 1952 Act;

then, if the pensioner is in receipt also of another aggregable pension, the 1971 rate given for the pension first referred to by Table I, II or III shall be reduced by the amount, if any, required by the rules contained in the notes to Table VI.

(3) For purposes of this Article a person for whose benefit a pension is payable shall be deemed to be in receipt of the pension notwithstanding that it is payable to some other person; and—

(*a*) where a man and his wife are in receipt, one of a substituted pension, and the other of the original pension, then in relation to the 1971 rate of either pension paragraph (1) or (2) above shall apply as if the one in receipt of the original pension were in receipt also of the substituted pension (instead of the one actually in receipt of it); and

(*b*) where a pensioner is in receipt of a pension described in paragraph (1) or (2) above and payable in respect of the services of the pensioner's deceased husband or wife, and another person is in receipt of a pension so described payable in respect of those services but payable for his benefit to that pensioner, then in relation to the 1971 rate of any of the pensions paragraph (1) or (2) above shall apply as if the person in receipt of it were in receipt also of any other of them; and

(*c*) where a pensioner is in receipt of a pension described in paragraph (1) above and payable in respect of the services of the pensioner's deceased husband, and a person under the age of 16 who is dependent on her is also in receipt of a pension so described payable in respect of those services (whether or not payable for his benefit to that pensioner), then in relation to the 1971 rate of any of the pensions paragraph (1) above shall apply as if the person in receipt of it were in receipt also of any other of them.